

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claims 1, 5, 8, 9, 11, 17, 19, 28-30, 39-41, 43, and 44 have been amended and have not been amended to narrow the scope of the claims as would have been understood by one of ordinary skill in the art, and claim 45 has been added. Claims 11 and 17 have been made independent and amended to more broadly recite a recording and/or reproducing apparatus, and has not been amended to narrow the scope of the claims as filed. No new matter is being presented, and approval and entry of the foregoing amendments and new claim are respectfully requested.

Claims 1-45 are pending and under consideration. Reconsideration is requested.

REQUEST FOR ACKNOWLEDGEMENT:

On page 1 of the Office Action, the Examiner has not acknowledged the claim for domestic priority U.S. Provisional Application No. 60/195,470, and has not confirmed that the Korean priority document has been received by checking box 12(a)(1). As such, it is respectfully requested that the Examiner acknowledge the status of these applications.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at pages 2-9, the Examiner rejects claims 1-3, 7, 9-11, 15, 19, 26-29, 34, 37-39, and 43 under 35 U.S.C. §103 in view of Helper (U.S. Patent No. 5,432,801) and Nakane et al. (U.S. Patent No. 6,621,782). This rejection is respectfully traversed and reconsideration is requested.

By way of review, claim 1 recites, among other features, "checking whether the recording and/or reproducing apparatus operates in the read or write mode to verify the DMA information analyzing function of the recording and/or reproducing apparatus."

In contrast, Helper discloses a CD-ROM drive 21 which performs error correction using an A-CRC processor 32 and a B-CRC processor 33 so as to allow error detection for CD-ROM and CD-I type discs. (Col. 3, lines 25-53 of Helper). However, while Helper discloses performing errors correction on data read from the CD-ROM or CD-I type discs, Helper does not disclose or suggest that the A-CRC processor 32 or the B-CRC processor 33 is verified by the error processes to determine that the processors 32, 33 are operating correctly.

Additionally, Nakane et al. discloses a defect management method for verifying data written to a DVD-RAM. A defect management control information detecting means 18 reads the control information used to perform defect management during reproduction. A defect

determining means 12 determines whether a sector to which data has been written is defective such that data written to the defective sector is written in a substitute sector. (Col. 9, lines 3-12, col. 10, lines 3-22 of Nakane et al.) As such, while Nakane et al. discloses performing defect management with respect to data being reproduced from or written to a DVD-RAM, Nakane et al. does not disclose verifying or checking whether the means 18 or the means 12 are operating correctly in the corresponding read or write modes.

Additionally, Nakane et al. does not suggest that the means 18 or means 12 would be useful in checking circuitry as opposed to whether data is written to defective sectors of the DVD-RAM.

As such, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest the invention recited in claim 1.

For similar reasons, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest the invention recited in claims 9 and 29.

On page 3 of the Office Action, the Examiner asserts that Nakane et al. teaches test reference information being a DMA mirror file since it is well known in the art to mirror or make copies of optical discs for distribution purposes, and since all DVD disks include DMA information. However, even assuming arguendo that the Examiner is correct as to the existence of mirror files, Nakane et al. does not suggest using DMA information from a mirror file. In general, in order to maintain a prima facie obviousness rejection, the Examiner needs to prove the existence of a motivation to make a particular combination, and that the motivation existed at a time relevant to 35 U.S.C. §103. The fact that a combination could be made is insufficient without evidence of a motivation to actually make the combination. MPEP 2143.01. As such, it is respectfully submitted that the Examiner has not provided sufficient evidence of a motivation to use a DMA mirror file for the DVD-RAM disclosed in Nakane et al. as is required to maintain a prima facie obviousness rejection of claim 3.

Moreover, DMA information is understood to be specific to the DVD-RAM to which the data is being written. Specifically, as generally set forth in col. 9, lines 13-28, of Nakane et al., defect management is at least partially performed to correlate the logic sector numbers used by a file system of the computer and a physical sector number of the DVD-RAM in order to account for replacement areas, which are areas for storing information otherwise stored in defective areas of the DVD-RAM. Since each relationship between the logical sector numbers and the physical sectors is unique to each DVD-RAM, one of ordinary skill in the art would not be motivated to use of a mirror file of a same DMA for multiple discs for the purpose of distribution since the DMA written to the DVD-RAMs would not correspond to the physical defects on the

distributed DVD-RAM. Therefore, it is respectfully submitted that there is evidence of record teaching away from the Examiner's asserted combination for which the Examiner has not accounted, as well as evidence that the use of the DMA mirror file would render the combination of Helper and Nakane et al. inoperative such that there is insufficient evidence of a motivation to use DMA in the form of a mirror file in the manner set forth in the Office Action as is required to maintain a prima facie obviousness rejection of claim 3.

For similar reasons, it is respectfully submitted that there is insufficient evidence of a motivation to use a DMA mirror file as set forth in the Office Action as is required to maintain a prima facie obviousness rejection of claims 10, 11, and 34.

On page 5 of the Office Action, the Examiner asserts that Nakane et al. discloses a system which can store sector defect errors as set forth in col. 10, lines 25-32, such that Nakane et al. teaches "storing test information having an incorrect start logical sector number of at least one zone on a test disc" as recited in claim 19. By way of review, Nakane et al. teaches a means 12 for determining a defect in data written to a DVD-RAM according to criteria A and B as shown in FIGs. 1, 6 and 12. Where the data is defectively written to a physical sector of the user data area, the data is written to a replacement sector of the spare area. (Col. 9, lines 13-27 and col. 10, lines 3-22 of Nakane et al.) There is no suggestion that the logical sectors are changed or that the replacement sectors relate to incorrect logical sectors in the file system to be written. There is also no suggestion that the data being written has or should have an incorrect logical block number for the file system being written to the DVD-RAM. Since Helper is not relied upon and does not disclose such a feature, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest, among other features, "storing test information having an incorrect start logical sector number of at least one zone on a test disc" as recited in claim 19.

For similar reasons, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest the invention recited in claims 28, 39, and 43.

On page 6 of the Office Action, the Examiner asserts that Nakane et al. teaches the use of a DVD-RAM which is interchangeable so as to disclose the features of claim 26. By way of review, claim 26 recites, among other features, "storing known physical defects on a blank disc to generate the test disc prior to storing the test information on the test disc." In contrast, Nakane et al. teaches accounting for physical defects on a DVD-RAM using the criteria shown in FIG. 6. However, Nakane et al. does not teach generating such physical defects. Moreover, since Nakane et al. teaches a method of detecting and accounting for the physical defects, it is unclear as to why one of ordinary skill in the art would modify the apparatus shown in FIG. 1 to

generate the physical defects. Moreover, there is no suggestion that the DVD-RAMs being used have defects that are known instead of discovered during recording data to the DVD-RAMs. As such, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest the invention recited in claim 26.

For similar reasons, it is respectfully submitted that the combination of Helper and Nakane et al. does not disclose or suggest the invention recited in claim 37.

Claims 2, 7, 8, 15, 27, 38 are deemed patentable due at least to their depending from corresponding claims 1, 9, 19, and 28.

OBVIOUSNESS TYPE DOUBLE PATENTING:

On page 10 of the Office Action, the Examiner provisionally rejects claim 41 under the judicially created doctrine of obviousness-type double patenting in view of claim 62 of copending U.S. Patent Application No. 09/805,437. Since U.S. Patent Application No. 09/805,437 has not yet been issued as a patent, and since the all of the claims of the instant application have not yet been indicated as allowable except for the provisional rejection, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the applicants be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. §103 is resolved or on allowance of U.S. Patent Application No. 09/805,437.

STATUS OF CLAIMS NOT REJECTED:

On pages 11-13 of the Office Action, the Examiner allows claims 41 and 42, and objects to claims 4-6, 8, 12-14, 16-18, 20-25, 30-33, 35, 36, 40, and 44 for depending from rejected claims. Claim 17 has been made independent, with the term "recording and reproducing" replaced with "recording and/or reproducing" in order to more broadly set forth the invention without narrowing the scope of the claims as would have been understood by one of ordinary skill in the art at the time of filing. As such, it is respectfully requested that the Examiner reconsider and withdraw the objections to at least claims 17 and 18.

PATENTABILITY OF NEW CLAIMS:

Claim 45 is deemed patentable due at least to its depending from claim 16.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

By: 

James G. McEwen
Registration No. 41,983

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

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